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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,895	02/01/2005	Francois Guissaz	ICB0205	2157

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EXAMINER

KAYES, SEAN PHILLIP

ART UNIT	PAPER NUMBER
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2833

MAIL DATE	DELIVERY MODE
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06/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,895

Applicant(s)

GUEISSAZ, FRANCOIS

Examiner

Sean Kayes

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/1/2005, initial filling.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/1/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13, 15, 16, 18, 19, 20, 21, 22, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 13 recites the limitation "the concentration of a gas" in line 4. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 13 recites the limitation ", emits, if necessary, an acoustic or visual warning alarm." This language renders the claim indefinite because it is not clear if a visual indicator or sound emitter is being claimed or not.
5. The term "differential measuring bridge" in claim 15 is not clearly defined and renders the claim indefinite. The term " differential measuring bridge " is not defined by the claim, the specification does not provide an explanation of the term, and one of ordinary skill in the art would not be reasonably determine of the scope of the invention.
6. Claim 16 recites the limitation "the enclosed space" in line 1. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 18 recites the limitations "the atmosphere" in line 3, "the initial concentration" in line 5, and "the leak rate" in line 8. There is insufficient antecedent basis for these limitations in the claim.

8. Claim 19 recites the limitation "the ambient temperature" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 20 recites the limitation the latter. This limitation renders the claim indefinite because it is not clear what "the latter" refers to.

10. Claims 21-22 recite the limitation "the enclosed space" in line 1. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 23 recites the limitation "the enclosed case" in line 2. There is insufficient antecedent basis for this limitation in the claim. Additionally, claim 23 recites the limitation "its concentration." This language should be clarified to explicitly state what "it" is.

12. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claim 23 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in paragraph 12 page 1 of the specification. Paragraph 12 states that the inert gas concentration in the case "must be high than its concentration in the air." This is in direct contradiction to claim 23 which states "the concentration of inert gas in the atmosphere of the enclosed case is less than its concentration in the ambient air."

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 13-15, 18, 22, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan (US 5786768.)

With respect to claim 13 Chan discloses a device for monitoring the water resistance of a case of an electronic timepiece including

- a time base ("alarm clock" line 2 of abstract) for generating a standard frequency signal and
- a central processing unit (16 figure 1) for determining the time from the standard signal, wherein it includes
- an electronic sensor (14 figure 1) capable of measuring fluctuations in the concentration of a gas in the atmosphere contained in the case, the results of the measurement carried out by the electronic sensor being processed by the central processing unit which, in response to the measurement signal, emits (20, 24, 18, or 25), if necessary, an acoustic or visual warning alarm.

15. With respect to claim 14 Chan discloses the device according to claim 13, wherein the sensor (14 figure 1) includes means for measuring said concentration continuously or intermittently and generating an alarm signal (18, 20, 24, and 25) figure 1) as soon as it detects a fluctuation in the value of the concentration of the gas greater than a predetermined value.

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16. With respect to claim 15 Chan discloses the device according to claim 14, wherein the electronic sensor includes a differential measuring bridge (14 figure 1.)

17. With respect to claim 18 Chan discloses a method of monitoring the water resistance of a case of a timepiece, wherein it includes the steps of:

- introducing a gas with an initial concentration into the atmosphere contained in the case (lines 1-2 of the abstract teach wherein the device is for use in an environment where a hazardous concentration of gas can be introduced.);
- measuring the initial concentration of gas (lines 5-7 of abstract, continuously or intermittently measuring the concentration of gas; and
- generating an alarm (lines 5-7 of abstract) when the measured concentration of gas is different from the initial concentration of said gas or when the leak rate exceeds a predetermined value.

18. With respect to claim 22 Chan discloses the method according to claim 18, wherein the gas present in the atmosphere of the enclosed case is an inert gas (the gas in the case is normal atmospheric air and thus contains at least some inert gases, i.e. CO₂ and nitrogen.)

19. With respect to claim 24 Chan discloses the method according to claim 22, wherein the inert gas is carbon dioxide or helium (The gas in Chan's invention is ordinary atmospheric air which includes carbon dioxide.)

20. With respect to claim 25 Chan discloses the method according to claim 23, wherein the inert gas is carbon dioxide or helium (The gas in Chan's invention is ordinary atmospheric air which includes carbon dioxide.)

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 16 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan (US 5786768) in view of Imoto (US 20050252273.)

23. With respect to claim 16 Chan discloses the device according to claim 13. Chan does not teach wherein the enclosed space is provided with a valve for forcing gas therein.

Imoto teaches an enclosure including a valve for introducing a test gas to a gas sensor in a controlled manner.

At the time of the invention it would have been obvious to one skilled in the art to place Chan's invention in an enclosure as taught by Imoto. The suggestion or motivation for doing so would be to place Chan's invention in an environment that can be easily controlled for testing and calibration as taught by Imoto.

24. With respect to claim 20 Chan discloses the method according to claim 18.

Chan does not teach wherein the case is filled with gas by opening the latter, filling it with gas, then sealing it in a water resistant manner.

While it is generally known to seal timepiece in a water resistant manner, Chan does not address the issue.

Imoto teaches an enclosure including a valve for introducing a test gas to a gas sensor in a controlled manner. Imoto's enclosure is gas and water resistant.

At the time of the invention it would have been obvious to one skilled in the art to Place Chan's invention in an enclosure as taught by Imoto. The suggestion or motivation for doing so would be to place Chan's invention in an environment that can be easily controlled for testing and calibration as taught by Imoto.

25. With respect to claim 21 Chan discloses the method according to claim 18.

Chan does not teach, wherein the enclosed space is filled with gas via a valve.

At the time of the invention it would have been obvious to one skilled in the art to Place Chan's invention in an enclosure as taught by Imoto. The suggestion or motivation for doing so would be to place Chan's invention in an environment that can be easily controlled for testing and calibration as taught by Imoto.

26. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of applicant's admitted prior art.

With respect to claim 17 Chan discloses the device according to claim 13.

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Chan does not teach wherein the sensor includes electrical heating means whose role is to keep a thermally and electrically insulated membrane at a constant temperature.

Chan does state wherein the sensor is a semiconductor sensor such as that discussed by applicant. Chan, however, does not suggest a supplier where such sensor can be purchased.

Applicant states that gas sensors of this type are known in the art (paragraphs 30 page 2 and 31 pages 2-3.) Applicant further states that the gas sensors are supplied by a company called Microsens.

At the time of the invention it would have been obvious to one skilled in the art to provide Chan's invention with a sensor such as that taught by Microsens. The suggestion or motivation for doing so would be to provide a gas sensor for Chan's invention.

27. With respect to claim 19 Chan discloses the method according to claim 18, wherein before measuring the concentration of gas, the ambient temperature is measured (the sensor provided in the modification in claim 17 functions by measuring the temperature, see applicant's discussion of the prior art paragraph 31.)

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


29. Silsens teaches a sensor for detection of CO.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Kayes whose telephone number is (571) 272-8931. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Paula can be reached on (571) 272-2800. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SK
6/4/2007



Vít Miska
Primary Examiner